THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 24677 of 2006

29-11-2006

Between:-

Bejawada Suryaprakash Rao and four others.

Petitioners

And

The State of Andhra Pradesh rep., by its Secretary,
Revenue (Endowments) Department, Secretariat,
Hyderabad and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No.24677 of 2006

Oral order:

The writ petition is filed assailing the apprehended action of the respondents in trying to dispossess the petitioners from the lands under their occupation.

Admittedly, the extent of Ac.08-41½ cents in survey No., 102/2 of Vakalapudi village, Kakinada Rural Mandal, East Godavari district, belongs to and is owned by the charitable institution, the third respondent. According to the petitioners, they claim to be landless poor persons. They made an application for being declared as such to the Assistant Commissioner of Endowments, Rajamundry. By an order dated 24-06-2006, the Assistant Commissioner rejected the petitioners' claim on the ground that the lease was granted on 14-01-1969 of an extent of Ac.08-41 cents dry land in favour of Bejawada Suryaprakash Rao and others (the names of others having not been mentioned); and the lease deed was not extended beyond 1985-86.

Aggrieved, the petitioners preferred an appeal to the second respondent. Appeal No. 88 of 2006 was rejected by the second respondent concurring with the conclusions recorded by the Assistant Commissioner and independently finding on the basis of the analysis recorded in the second respondent's order dated 13-10-2006 that the petitioners were not landless poor persons and thus disentitled for the

benefits under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act').

Aggrieved by the order of the second respondent dated 13-10-2006 rejecting their appeal, the petitioners state to have preferred a revision to the Government under Section 93 of the Act, on 17-11-2006. The petitioners' grievance is that the first respondent-State has neither disposed of the revision nor the application for interim relief filed therewith and meanwhile the respondents would take steps to dispossess the petitioners. The petitioners seek a direction to the first respondent to dispose of their revision petition at an early date.

In the circumstances above, as the petitioners' potentially face a threat of dispossession on account of the orders of the second respondent dated 13-10-2006 confirming the orders of the Assistant Commissioner, Endowments, Rajahmundry, the first respondent is directed to expeditiously and in any event within a period of two weeks, consider and dispose of the application of the petitioners for grant of interim relief filed in the revision against the appellate order dated 24-06-2006 of the second respondent. The first respondent while considering grant of interim relief should bear in mind the criteria of *prima facie* case of the petitioners on the basis of whether they were granted individual leases for specified extents of land, which entitle them to being considered as landless poor persons. The first respondent shall also examine whether the lease deed/deeds specify grant of lease of specific extents of lands, on the basis of which the petitioners' claim could be sustained. The first respondent shall also consider whether irreparable prejudice that would be caused either to the charitable institution concerned or to the petitioners and the

balancing of this criterion, in considering the petitioners application for grant of interim relief.

This court is merely intimated the relevant parameters for granting interim relief. Nothing in this order shall be construed as an expression by this court as to the merits of the petitioners' claim. The first respondent shall dispose of the petitioners' application for grant of interim relief on an independent assessment and the relevant facts, but shall record a reasoned decision for either grant or refusal of interim relief.

The writ petition is disposed of as above. No order as to costs.

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GODA RAGHURAM, J

Dated:29-11-2006
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